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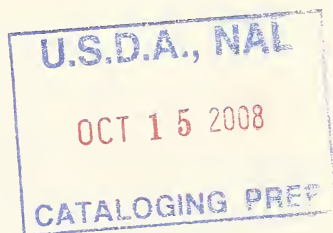
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# COMPILATION

OF THE AGRICULTURAL ADJUSTMENT ACT OF 1938,  
AND THE AGRICULTURAL ACT OF 1949

## TOBACCO MARKETING QUOTAS AND PRICE SUPPORTS

JULY 1, 1975



Compiled by  
Tobacco and Peanut Division  
Agricultural Stabilization and Conservation Service  
U. S. DEPARTMENT OF AGRICULTURE  
Washington, D. C. 20250



AGRICULTURAL ADJUSTMENT ACT OF 1938 1/  
As of July 1, 1975

AN ACT

To provide for the conservation of national soil resources and to provide an adequate and balanced flow of agricultural commodities in interstate and foreign commerce and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Adjustment Act of 1938." (7 U.S.C. 1281.)

DECLARATION OF POLICY

Sec.2. It is hereby declared to be the policy of Congress to continue the Soil Conservation and Domestic Allotment Act, as amended, for the purpose of conserving national resources, preventing the wasteful use of soil fertility, and of preserving, maintaining, and rebuilding the farm and ranch land resources in the national public interest; to accomplish these purposes through the encouragement of soil-building and soil-conserving crops and practices; to assist in the marketing of agricultural commodities for domestic consumption and for export; and to regulate interstate and foreign commerce in cotton, wheat, corn, tobacco, and rice to the extent necessary to provide an orderly, adequate and balanced flow of such commodities in interstate and

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<sup>1</sup> Pub.L.430, 75th Cong., 52 Stat.31, approved February 16, 1938.

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foreign commerce through storage of reserve supplies, loans, marketing prices for such commodities and parity of income, and assisting consumers to obtain an adequate and steady supply of such commodities at fair prices. (7 U.S.C. 1282.)

## TITLE III-LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, MARKETING QUOTAS, AND MARKETING CERTIFICATES

### SUBTITLE A-DEFINITIONS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS

#### DEFINITIONS

#### Sec. 301. (a) GENERAL DEFINITIONS. x x x

(b) DEFINITIONS APPLICABLE TO ONE OR MORE COMMODITIES. For the purposes of this title

x x x

(C) "Carry-over" of tobacco for any marketing year shall be the quantity of such tobacco on hand in the United States at the beginning of such marketing year (or on January 1 of such marketing year in the case of Maryland tobacco), which was produced in the United States prior to the beginning of the calendar year in which such marketing year begins, except that in the case of cigar-filler and cigar-binder tobacco the quantity of type 46 on hand and theretofore produced in the United States during such calendar year shall also be included.

x x x

(6) (A) "Market", in the case of x x x, tobacco x x x means to dispose of, in raw or processed form, by voluntary or involuntary sale, barter, or exchange, or by gift inter vivos x x x.

(B) "Marketed", "marketing", and "for market" shall have corresponding meanings to the term "market" in the connection in which they are used.

x x x

(7) "Marketing year" means, in the case of the following commodities, the period beginning on the

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first and ending with the second date specified below:

x x x

Tobacco (flue-cured), July 1-June 30;

Tobacco (other than flue-cured), October 1-September 30;

x x x

x x x

(10) (B) "Normal supply" in the case of tobacco shall be a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports as an allowance for a normal carry-over.

x x x

x x x

(11) (B) "Normal year's domestic consumption", in the case of x x x tobacco, shall be the yearly average quantity of the commodity produced in the United States that was consumed in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

x x x

(12) "Normal year's exports" in the case of x x x tobacco x x x shall be the yearly average quantity of the commodity produced in the United States that was exported from the United States during the ten marketing years x x x immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

x x x

x x x

(14) (B) "Reserve supply level" of tobacco shall be the normal supply plus 5 per centum thereof, to insure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

(15) "Tobacco" means each one of the kinds of tobacco listed below comprising the types specified as classified in Service and Regulatory Announcement Numbered 118 of the Bureau of Agricultural Economics

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of the Department:

Flue-cured tobacco, comprising types 11, 12, 13, and 14;

Fire-cured tobacco, comprising types 21, 22, 23, and 24;

Dark air-cured tobacco, comprising types 35 and 36;

Virginia sun-cured tobacco, comprising type 37;

Burley tobacco, comprising type 31;

Maryland tobacco, comprising type 32;

Cigar-filler and cigar-binder tobacco, comprising types 42, 43, 44, 45, 46, 51, 52, 53, 54, and 55;

Cigar-filler tobacco comprising type 41.

The provisions of this title shall apply to each of such kinds of tobacco severally: Provided, That any one or more of the types comprising any such kind of tobacco shall be treated as a "kind of tobacco" for the purposes of this Act if the Secretary finds x x x there is a difference in supply and demand conditions as among such types of tobacco which results in a difference in the adjustments needed in the marketings thereof in order to maintain supplies in line with demand: Provided further, That with respect to the 1958 and subsequent crops, type 21 (Virginia) fire-cured tobacco shall be treated as a "kind of tobacco" for the purposes of all of the provisions of this title, except that for the purposes of section 312 (c) of this title, types 21, 22, and 23, fire-cured tobacco shall be treated as one "kind of tobacco".

x x x

(16) (B) "Total supply" of tobacco for any marketing year shall be the carry-over at the beginning of such marketing year (or on January 1 of such marketing year in the case of Maryland tobacco) plus the estimated production thereof in the United States during the calendar year in which such marketing year begins, except that the estimated production of type-46 tobacco during the marketing year with respect to which the determination is being made shall be used in lieu of the estimated production of such type during the calendar year in which such marketing year begins in



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determining the total supply of cigar-filler and cigar-binder tobacco.

x x x

(c) The latest available statistics of the Federal Government shall be used by the Secretary in making the determinations required to be made by the Secretary under this Act. (7 U.S.C. 1301 (c).)

(d) In making any determination under this Act or under the Agricultural Act of 1949 with respect to the carryover of any agricultural commodity, the Secretary shall exclude from such determination the stocks of any commodity acquired pursuant to, or under the authority of the Strategic and Critical Materials Stock Piling Act (60 Stat. 596). (7 U.S.C. 1301 (d).)

x x x

## CONSUMER SAFEGUARDS

SEC. 304. The powers conferred under this Act shall not be used to discourage the production of supplies of foods and fibers sufficient to maintain normal domestic human consumption as determined by the Secretary from the records of domestic human consumption in the years 1920 to 1929, inclusive, taking into consideration increased population, quantities of any commodity that were forced into domestic consumption by decline in exports during such period, current trends in domestic consumption and exports of particular commodities, and the quantities of substitutes available for domestic consumption within any general class of food commodities. In carrying out the purposes of this Act it shall be the duty of the Secretary to give due regard to the maintenance of a continuous and stable supply of agricultural commodities from domestic production adequate to meet consumer demand at prices fair to both producers and consumers. (7 U.S.C. 1304.)

## SUBTITLE B—MARKETING QUOTAS

## PART I—MARKETING QUOTAS—TOBACCO

## LEGISLATIVE FINDINGS

SEC. 311. (a) The marketing of tobacco constitutes one of the great basic industries of the United States with ramifying activities which directly affect interstate and foreign commerce at every point and stable conditions therein are necessary to the general welfare. Tobacco produced for market is sold on a Nationwide market and, with its products, moves almost wholly in interstate and foreign commerce from the producer to the ultimate consumer. The farmers producing such commodity are subject in their operations to uncontrollable natural causes, are widely scattered throughout the Nation, in many cases such farmers carry on their farming operations on borrowed money or leased lands, and are not so situated as to be able to organize effectively, as can labor and industry through unions and corporations enjoying Government protection and sanction. For these reasons, among others, the farmers are unable without Federal assistance to control effectively the orderly marketing of such commodity with the result that abnormally excessive supplies thereof are produced and dumped indiscriminately on the Nation-wide market. (7 U.S.C. 1311 (a).)

(b) The disorderly marketing of such abnormally excessive supplies affects, burdens, and obstructs interstate and foreign commerce by (1) materially affecting the volume of such commodity marketed therein, (2) disrupting the orderly marketing of such commodity therein, (3) reducing the price for such commodity with consequent injury and destruction of interstate and foreign commerce in such

commodity, and (4) causing a disparity between the prices for such commodity in interstate and foreign commerce and industrial products therein, with a consequent diminution of the volume of interstate and foreign commerce in industrial products. (7 U.S.C. 1311(b).)

(c) Whenever an abnormally excessive supply of tobacco exists, the marketing of such commodity by the producers thereof directly and substantially affects interstate and foreign commerce in such commodity and its products, and the operation of the provisions of this part becomes necessary and appropriate in order to promote, foster, and maintain an orderly flow of such supply in interstate and foreign commerce. (7 U.S.C. 1311(c).)

#### NATIONAL MARKETING QUOTA

SEC. 312. (a) The Secretary shall, not later than December 1 of any marketing year with respect to flue-cured tobacco, and February 1 of any marketing year with respect to other kinds of tobacco, proclaim a national marketing quota for any kind of tobacco for each of the next three succeeding marketing years whenever he determines with respect to such kind of tobacco—

(1) that a national marketing quota has not previously been proclaimed and the total supply as of the beginning of such marketing year exceeds the reserve supply level therefor;

(2) that such marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect;

(3) that amendments have been made in provisions for establishing farm acreage allotments which will cause material revision of such allotments before the end of the period for which quotas are in effect; or

(4) that a marketing quota previously proclaimed for such marketing year is not in effect because of disapproval by producers in a referendum held pursuant to subsection (c): *Provided*, That if such producers have disapproved national marketing quotas in referenda held in three successive years subsequent to 1952, thereafter a national marketing quota shall not be proclaimed hereunder which would be in effect for any marketing year within the three-year period for which national marketing quotas previously proclaimed were disapproved by producers in a referendum, unless prior to November 10 of the marketing year one-fourth or more of the farmers engaged in the production of the crop of tobacco harvested in the calendar year in which such marketing year begins petition the Secretary, in accordance with such regulations as he may prescribe, to proclaim a national marketing quota for each of the next three succeeding marketing years. (7 U.S.C. 1312(a).)

[Pub. L. 92-1, S.J. Res. 44.<sup>23</sup>—That, notwithstanding any other provision of law, the Secretary of Agriculture may defer any proclamation under section 312 of the Agricultural Adjustment Act of 1938, as amended, with respect to national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, until

<sup>23</sup> Pub. L. 92-1, 85 Stat. 3, approved March 1, 1971.

the date he determines is necessary to permit growers to be notified of their farm marketing quotas and the referendum to be held prior to normal planting time.]

[Pub. L. 92-10. Sec. 4.<sup>24</sup>—Any action taken by the Secretary pursuant to section 312 of the Act (7 U.S.C. 1312) for burley tobacco for any of the three marketing years beginning October 1, 1971, prior to the enactment of this section, shall be of no effect.]

### [JOINT RESOLUTION OF DECEMBER 31, 1970<sup>25</sup>

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That, notwithstanding any other provision of law, the Secretary of Agriculture may defer until March 1, 1971, any proclamation under section 312 of the Agricultural Adjustment Act of 1938, as amended, with respect to national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971. (7 U.S.C. 1312 note.)

(b) The Secretary shall also determine and announce not later than the first day of December with respect to flue-cured tobacco and not later than the first day of February with respect to other kinds of tobacco, the amount of the national marketing quota proclaimed pursuant to subsection (a) which is in effect for the next marketing year in terms of the total quantity of tobacco which may be marketed which will make available during such marketing year a supply of tobacco equal to the reserve supply level. The amount of the national marketing quota so announced may, not later than the following March 1, be increased by not more than 20 per centum if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restrictions of marketings in adjusting the total supply to the reserve supply level. (7 U.S.C. 1312(b).)

(c) Within thirty days after the proclamation of national marketing quotas under subsection (a), the Secretary shall conduct a referendum of farmers engaged in the production of the crop of tobacco harvested immediately prior to the holding of the referendum to determine whether such farmers are in favor of or opposed to such quotas for the next three succeeding marketing years. If more than one-third of the farmers voting oppose the national marketing quotas, such results shall be proclaimed by the Secretary and the national marketing quotas so proclaimed shall not be in effect but such results shall in no wise affect or limit the subsequent proclamation and submission to a referendum, as otherwise provided in this section, of a national marketing quota. (7 U.S.C. 1312(c).)

### APPORTIONMENT OF NATIONAL MARKETING QUOTA

SEC. 313. (a) The national marketing quota for tobacco established pursuant to the provisions of section 312, less the amount to be allotted under subsection (c) of this section, shall be apportioned by the Secretary among the several States on the basis of the total production of tobacco in each State during the five calendar years immediately

<sup>24</sup> Pub. L. 92-10, 85 Stat. 27, approved April 14, 1971.

<sup>25</sup> Pub. L. 91-641, 84 Stat. 1879.



preceding the calendar year in which the quota is proclaimed (plus in applicable years, the normal production on the acreage diverted under previous agricultural adjustment and conservation programs), with such adjustments as are determined to be necessary to make correction for abnormal conditions of production, for small farms, and for trends in production, giving due consideration to seed bed and other plant diseases during such five-year period. Notwithstanding any other provision of this section and section 312 \* \* \* the burley tobacco acreage allotment which would otherwise be established for any farm having a burley acreage allotment in 1942 shall not be less than one-half acre, and the acreage required for apportionment under this proviso shall be in addition to the National and State acreage allotments. (7 U.S.C. 1313(a).)

[Act of July 12, 1952.<sup>26</sup> \* \* \* notwithstanding any other provision of law, effective for the 1956 and subsequent crops of burley tobacco, the farm acreage allotment for burley tobacco for any year shall not be less than the smallest of (1) the allotment established for the farm for the immediately preceding year, (2) five-tenths of an acre, or (3) 10 per centum of the cropland: *Provided, however,* That no allotment of seven-tenths of an acre or less shall be reduced more than one-tenth of an acre in any one year. The additional acreage required under this Act shall be in addition to the State acreage allotments and the production on such acreage shall be in addition to the national marketing quota. (7 U.S.C. 1315.)]

(b) The Secretary shall provide, through the local committees, for the allotment of the marketing quota for any State among the farms on which tobacco is produced, on the basis of the following: Past marketing of tobacco, making due allowance for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor, and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided, That,* except for farms on which for the first time in five years tobacco is produced to be marketed in the marketing year for which the quota is effective, the marketing quota for any farm shall not be less than the smaller of either (1) three thousand two hundred pounds, in the case of flue-cured tobacco, and two thousand four hundred pounds, in the case of other kinds of tobacco, or (2) the average tobacco production for the farm during the preceding three years, plus the average normal production of any tobacco acreage diverted under agricultural adjustment and conservation programs during such preceding three years. (7 U.S.C. 1313(b).)

(c) The Secretary shall provide, through local committees, for the allotment of not in excess of 5 per centum of the national marketing quota (1) to farms in any State whether it has a State quota or not on which for the first time in five years tobacco is produced to be marketed in the year for which the quota is effective and (2) for further increase of allotments to small farms pursuant to the proviso in subsection (b) of this section on the basis of the following: Land, labor, and equipment available for the production of tobacco; crop-

<sup>26</sup> Pub. L. 528, 82d Cong., 66 Stat. 597, amended further by Pub. L. 21, 84th Cong., 69 Stat. 24, approved March 31, 1955.

rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided*, That farm marketing quotas established pursuant to this subsection for farms on which tobacco is produced for the first time in five years shall not exceed 75 per centum of the farm marketing quotas established pursuant to subsection (b) of this section for farms which are similar with respect to the following: Land, labor, and equipment available for the production of tobacco, crop-rotation practices, and the soil and other physical factors affecting the production of tobacco. (7 U.S.C. 1313(c).)

(d) Farm marketing quotas may be transferred only in such manner and subject to such conditions as the Secretary may prescribe by regulations. (7 U.S.C. 1313(d).)

(e) In case of flue-cured tobacco, the national quota for 1938 is increased by a number of pounds required to provide for each State in addition to the State poundage allotment a poundage not in excess of 4 per centum of the allotment which shall be apportioned in amounts which the Secretary determines to be fair and reasonable to farms in the State receiving allotments under the Agricultural Adjustment Act of 1938 which the Secretary determines are inadequate in view of past production of tobacco, and for each year by a number of pounds sufficient to assure that any State receiving a State poundage allotment of flue-cured tobacco shall receive a minimum State poundage allotment of flue-cured tobacco equal to the average national yield for the preceding five years of five hundred acres of such tobacco. (7 U.S.C. 1313(e).)

(f) (Applicable only to 1938 crop.)

(g)<sup>27</sup> Notwithstanding any other provision of this section, the Secretary may convert the national marketing quota into a national acreage allotment by dividing the national marketing quota by the national average yield for the five years immediately preceding the year in which the national marketing quota is proclaimed, and may apportion the national acreage allotment, less a reserve of not to exceed 1 per centum thereof for new farms, for making corrections in old farm acreage allotments, and for adjusting inequities in old farm acreage allotments, through the local committees among farms on the basis of the factors set forth in subsection (b), using past farm acreage and past farm acreage allotments for tobacco in lieu of past marketing of tobacco; and the Secretary on the basis of the factors set forth in subsection (c) and the past tobacco experience of the farm operator, shall through the local committees allot that portion of the national acreage allotment reserved for new farms among farms on which no tobacco was produced or considered produced during the last five years. Any acreage of tobacco harvested in excess of the farm acreage allotment for the year 1955, or any subsequent crop shall not be taken into account in establishing State and farm acreage allotments. Except for farms last mentioned or a farm operated, controlled, or directed by a person who also operates, controls, or directs another farm on which tobacco is produced, the farm-acreage allotment shall be increased by the smaller of (1) 20 per centum of such allotment or (2) the per-

<sup>27</sup> Section 313(g) was amended by Pub. L. 90-106, 81 Stat. 275, approved October 12, 1967.

centage by which the normal yield of such allotments (as determined through the local committees in accordance with regulations prescribed by the Secretary) is less than three thousand two hundred pounds, in the case of flue-cured tobacco, and two thousand four hundred pounds in the case of other kinds of tobacco: *Provided*, That the normal yield of the estimated number of acres so added to farm acreage allotments in any State shall be considered as a part of the State marketing quota in applying the proviso in subsection (a). The actual production of the acreage allotment established for a farm pursuant to this subsection shall be the amount of the farm marketing quota. If any amount of tobacco shall be marketed as having been produced on the acreage allotment for any farm which in fact was produced on a different farm, the acreage allotments next established for both such farms shall be reduced by that percentage which such amount was of the respective farm marketing quota, except that such reduction for any such farm shall not be made if the Secretary through the local committees finds that no person connected with such farm caused, aided, or acquiesced in such marketing; and if proof of the disposition of any amount of tobacco is not furnished as required by the Secretary or if any producer on the farm files, or aids or acquiesces in the filing of, any false report with respect to the acreage of tobacco grown on the farm required by regulations issued pursuant to this Act, the acreage allotment next established for the farm on which such tobacco is produced shall be reduced by a percentage similarly computed. If in any calendar year more than one crop of tobacco is grown from (1) the same tobacco plants or (2) different tobacco plants, and is harvested for marketing from the same acreage of a farm, the acreage allotment next established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco has been so grown and harvested. (7 U.S.C. 1313(g).)

(h)<sup>28</sup>

(i)<sup>29</sup> Notwithstanding any other provision of this Act, whenever after investigation the Secretary determines with respect to any kind of tobacco that a substantial difference exists in the usage or market outlets for any one or more of the types comprising such kind of tobacco and that the quantity of tobacco of such type or types to be produced under the marketing quotas and acreage allotments established pursuant to this section would not be sufficient to provide an adequate supply for estimated market demands and carry-over requirements for such type or types of tobacco, the Secretary shall increase the marketing quotas and acreage allotments for farms producing such type or types of tobacco in the preceding year to the extent necessary to make available a supply of such type or types of tobacco adequate to meet such demands and carry-over requirements. The increases in farm marketing quotas and acreage allotments shall be made on the basis of the production of such type or types of tobacco during the period of years considered in establishing farm marketing quotas and acreage allotments for such kind of tobacco. The additional production authorized by this subsection shall be in addition to the national mar-

<sup>28</sup> Section 313(h) repealed by Pub. L. 85-835, 72 Stat. 988, approved August 28, 1958.

<sup>29</sup> See section 4 of Pub. L. 89-12, 79 Stat. 66, approved April 16, 1965, on p. 66.



keting quota established for such kind of tobacco pursuant to section 312 of this Act. The increase in acreage under this subsection shall not be considered in establishing future State or farm acreage allotments. (7 U.S.C. 1313(i).)

(j) (Applicable only to the 1956, 1957, and 1958 crops.)

(j) [sic]<sup>30</sup> The production of tobacco on a farm in 1955 or any subsequent year for which no farm acreage allotment was established shall not make the farm eligible for an allotment as an old farm under subsections (b) and (g) hereof or section 317: *Provided, however*, That by reason of such production the farm need not be considered as ineligible for a new farm allotment under subsections (c) and (g) hereof or section 317, but such production shall not be deemed past tobacco experience for any producer on the farm. (7 U.S.C. 1313(j).)<sup>31</sup>

#### PENALTIES

SEC. 314. (a) The marketing of any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced shall be subject to a penalty of 75 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year. Such penalty shall be paid by the person who acquired such tobacco from the producer but an amount equivalent to the penalty may be deducted by the buyer from the price paid to the producer in case such tobacco is marketed by sale; or, if the tobacco is marketed by the producer through a warehouseman or other agent, such penalty shall be paid by such warehouseman or agent who may deduct an amount equivalent to the penalty from the price paid to the producer: *Provided*, That in case any tobacco is marketed directly to any person outside the United States the penalty shall be paid and remitted by the producer. If any producer falsely identifies or fails to account for the disposition of any tobacco, an amount of tobacco equal to the normal yield of the number of acres harvested in excess of the farm-acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer. Tobacco carried over by the producer thereof from one marketing year to another may be marketed without payment of the penalty imposed by this section if the total amount of tobacco available for marketing from the farm in the marketing year from which the tobacco is carried over did not exceed the farm marketing quota established for the farm for such marketing year (or which would have been established if marketing quotas had been in effect for such marketing year), or if the tobacco so carried over does not exceed the normal production of that number of acres by which the harvested acreage of tobacco in the calendar year in which the marketing year begins is less than the farm-acreage allotment. Tobacco produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas

<sup>30</sup> Subsection (j) to Sec. 313 was added by Pub. L. 361, 84th Cong., 69 Stat. 684, approved August 11, 1955; so in original, probably should be subsec. (k).

<sup>31</sup> Pub. L. 89-12, 79 Stat. 66, approved April 16, 1965, added the words, "or section 317" after the words, "and (g) hereof" wherever they appear.



even though it is marketed prior to the date on which said marketing year begins. (7 U.S.C. 1314(a).)

(b) The Secretary shall require collection of the penalty upon a proportion of each lot of tobacco marketed from the farm equal to the proportion which the tobacco available for marketing from the farm in excess of the farm marketing quota is of the total amount of tobacco available for marketing from the farm if satisfactory proof is not furnished as to the disposition to be made of such excess tobacco prior to the marketing of any tobacco from the farm. All funds collected pursuant to this section shall be deposited in a special deposit account with the Treasurer of the United States until the end of the marketing year next succeeding that in which the funds are collected, and upon certification by the Secretary there shall be paid out of such special deposit account to persons designated by the Secretary the amount by which the penalty collected exceeds the amount of penalty due upon tobacco marketed in excess of the farm marketing quota for any farm. Such special account shall be administered by the Secretary, and the basis for, the amount of, and the person entitled to receive a payment from such account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive. (7 U.S.C. 1314(b).)

REFERENDUM FOR SINGLE COMBINED ACREAGE ALLOTMENT

SEC. 315. \* \* \* \*

LEASE AND TRANSFER OF ACREAGE ALLOTMENTS

SEC. 316. (a)<sup>33</sup> Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the tobacco marketing quota or price support program, may permit the owner and operator of any farm for which a tobacco acreage allotment (other than a Burley, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder, type 54 or 55 tobacco acreage allotment) is established under this Act to lease all or any part of such allotment or quota to any other owner or operator of a farm in the same county for use in such county on a farm having a current tobacco allotment or quota of the same kind.

(b)<sup>34</sup> Any lease may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions, except as otherwise provided in this section, as the parties thereto agree.

(c) The lease and transfer of any allotment shall not be effective until a copy of such lease is filed with and determined by the county committee of the county in which the farms involved are located to be in compliance with provisions of this section. Any lease of flue-cured tobacco acreage-poundage marketing quotas from any farm with an acreage-poundage marketing quota in excess of 2,000 pounds filed on or after June 15 in any year shall not be effective unless

<sup>33</sup> Section 315 was repealed by section 2 of Pub. L. 90-51, 81 Stat. 121, approved July 7, 1967.

<sup>34</sup> Subsection (a) was amended by Pub. L. 91-284, 84 Stat. 314, approved June 19, 1970.

<sup>35</sup> Subsection (b) was amended by Pub. L. 91-284, 84 Stat. 314, approved June 19, 1970.

the acreage planted on both the lessor and the lessee farms during the current marketing year was as much as 50 per centum of the farm acreage allotment in effect for such year.<sup>35</sup> If the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the lease and transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established by the farm to which the allotment is transferred.

【Pub. L. 89-321, Sec. 703.—Notwithstanding the provisions of subsection 316(c) and subsection 317(f) relating to lease and transfer of allotments for years subsequent to 1965, of the Agricultural Adjustment Act of 1938, as amended, whenever acreage poundage quotas are in effect for any kind of tobacco <sup>36</sup> as provided in section 317 of the Act, the lease and transfer shall be on a pound for pound basis and the acreage allotment for the lessee farm shall be increased by an amount determined by dividing the number of pounds leased by the farm yield for the lessee farm, and the acreage allotment for the lessor farm shall be reduced by an amount determined by dividing the number of pounds leased by the farm yield for the lessor farm. (79 Stat. 1210, November 3, 1965, 7 U.S.C. 1316.)】

(d) The lease and transfer of any part of a tobacco acreage allotment determined for a farm shall not affect the allotment for the farm from which such acreage allotment is transferred or the farm to which it is transferred, except with respect to the crop year specified in the lease. The amount of acreage allotment which is leased from a farm shall be considered for purpose of determining future allotments to have been planted to tobacco on the farm from which such allotment is transferred and the production pursuant to the lease and transfer shall not be taken into account in establishing allotments for subsequent years for the farm to which such allotment is transferred. The lessor shall be considered to have been engaged in the production of tobacco for the purpose of eligibility to vote in the referendum.

(e)<sup>37</sup> The total acreage allotted to any farm after the transfer by lease of tobacco acreage allotment to the farm under the provisions of this section shall not exceed 50 per centum of the acreage of cropland in the farm: *Provided*, That in the case of cigar-filler tobacco types 42, 43, or 44, not more than 10 acres of allotment may be leased and transferred to any farm.

<sup>35</sup> The second sentence of subsection (c) was amended by Pub. L. 92-311, 86 Stat. 215, approved June 6, 1972. For previous language and accompanying footnote, see p. 59 of Agriculture Handbook No. 408.

<sup>36</sup> The exception formerly made for Burley tobacco was eliminated by Pub. L. 91-284, 84 Stat. 314, approved June 19, 1970.

<sup>37</sup> Subsection (e) was amended by Pub. L. 90-52, 81 Stat. 121, approved July 7, 1967. The proviso was added by Pub. L. 91-284, 84 Stat. 314, approved June 19, 1970.

(f) The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section. (7 U.S.C. 1314b.)

(g) Notwithstanding any provision of this section, when as a result of flood, hail, wind, tornado, or other natural disaster the Secretary determines (1) that one of the counties hereinafter listed has suffered a loss of 10 per centum or more in the number of acres of tobacco planted and (2) that a lease of such tobacco allotment or quota will not impair the effective operation of the tobacco marketing quota or price support program, he may permit the owner and operator of any farm within Atkinson, Bacon, Berrien, Clinch, Cook, Lanier, Lowndes, or Ware Counties, Georgia, or Clarendon, Lee, Sumter, or Williamsburg Counties, South Carolina, which has suffered a loss of 30 per centum or more in the number of acres of tobacco planted of such crop to lease all or any part of such allotment or quota to any other owners or operators in the same county, or nearby counties within the same State, for use in such counties for the year 1973 on a farm or farms having a current tobacco allotment or quota of the same kind. In the case of a lease and transfer to an owner or operator in another country pursuant to this subsection, the lease and transfer shall not be effective until a copy of the lease is filed with and determined by the county committee of the county to which the transfer is made to be in compliance with the provisions of this subsection.<sup>35</sup>

(h) \* \* \*

#### ACREAGE-POUNDAGE QUOTAS

SEC. 317.<sup>40</sup> (a) For purpose of this section—

(1) "National marketing quota" for any kind of tobacco for a marketing year means the amount of the kind of tobacco produced in the United States which the Secretary estimates will be utilized during the marketing year in the United States and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 15 per centum of such estimated utilization and exports.

(2) "National average yield goal" for any kind of tobacco means the yield per acre which on a national average basis the Secretary determines will improve or insure the usability of the tobacco and increase the net return per pound to the growers. In making this determination the Secretary shall give consideration to such Federal-State production research data as he deems relevant.

(3) "National acreage allotment" means the acreage determined by dividing the national marketing quota by the national average yield goal.

<sup>35</sup> Subsection (g) was added by P.L. 93-80, 87 Stat. 178, August 1, 1973. The original text was repealed by P.L. 91-284, 84 Stat. 314, June 19, 1970.

<sup>36</sup> P.L. 88-469, 78 Stat. 581, August 30, 1964, repealed subsection (h) which was enacted by P.L. 88-80, 77 Stat. 114, July 30, 1963.

<sup>40</sup> New section 317 was added by P.L. 89-12, 79 Stat. 66, April 16, 1965.

(4) "Farm acreage allotment" for a tobacco farm, other than a new tobacco farm, means the acreage allotment determined by adjusting uniformly the acreage allotment established for such farm for the immediately preceding year, prior to any increase or decrease in such allotment due to undermarketings or overmarketings and prior to any reduction under subsection (f), so that the total of all allotments is equal to the national acreage allotment less the reserve provided in subsection (e) of this section with a further downward or upward adjustment to reflect any adjustment in the farm marketing quota for overmarketing or undermarketing and to reflect any reduction required under subsection (f) of this section, and including any adjustment for errors or inequities from the reserve. In determining farm acreage allotments for flue-cured tobacco for 1965, the 1965 farm allotment determined under section 313 shall be adjusted in lieu of the acreage allotment for the immediately preceding year.

(5) The "community average yield" means for Flue-cured tobacco the average yield per acre in the community designated by the Secretary as a local administrative area under the provisions



of section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, which is determined by averaging the yields per acre for the three highest years of the five years 1959 to 1963, inclusive, except that if the yield for any of the three highest years is less than 80 per centum of the average for the three years then that year or years shall be eliminated and the average of the remaining years shall be the community average yield. Community average yields for other kinds of tobacco shall be determined in like manner, except that the five years 1960 to 1964, inclusive, may be used instead of the period 1959 to 1963, as determined by the Secretary.

(6) (A) "Preliminary farm yield" for Flue-cured tobacco means a farm yield per acre determined by averaging the yield per acre for the three highest years of the five consecutive crop years beginning with the 1959 crop year except that if that average exceeds 120 per centum of the community average yield the preliminary farm yield shall be the sum of 50 per centum of the average of the three highest years and 50 per centum of the national average yield goal but not less than 120 per centum of the community average yield, and if the average of the three highest years is less than 80 per centum of the community average yield the preliminary farm yield shall be 80 per centum of the community average yield. In counties where less than five hundred acres of Flue-cured tobacco were allotted for 1964, the county may be considered as one community. If Flue-cured tobacco was not produced on the farm for at least three years of the five-year period the average of the yields for the year in which tobacco was produced shall be used instead of the three-year average. If no Flue-cured tobacco was produced on the farm in the five-year period but the farm is eligible for an allotment because Flue-cured tobacco was considered to have been produced under applicable provisions of law, a preliminary farm yield for the farm shall be determined under regulations of the Secretary taking into account preliminary farm yields of similar farms in the community.

(B) "Preliminary farm yield" for kinds of tobacco, other than Flue-cured, means a farm yield per acre determined in accordance with subparagraph (A) of this paragraph (6) except that in lieu of the five consecutive crop years beginning with 1959 the years 1960 to 1964, inclusive, may be used, as determined by the Secretary. In counties where less than five hundred acres of the kind of tobacco for which the determination is being made were allotted in the last year of the five-year period the county may be considered as one community. If tobacco of the kind for which the determination is being made was not produced on the farm for at least three years of the five-year period, the average of the yields for the years in which the kind of tobacco was produced shall be used instead of the three-year average. If no tobacco of the kind for which the determination is being made was produced on the farm in the five-year period but the farm is eligible for an allotment because such tobacco was considered to have been pro-

duced under applicable provisions of law, a preliminary farm yield for the farm shall be determined under regulations of the Secretary taking into account preliminary farm yields of similar farms in the community.

(7) "Farm yield" means the yield of tobacco per acre for a farm determined by multiplying the preliminary farm yield by a national yield factor which shall be obtained by dividing the national average yield goal by a weighted national average yield computed by multiplying the preliminary farm yield for each farm by the acreage allotment determined pursuant to paragraph (4) for the farm prior to adjustments for overmarketing, undermarketing, or reductions required under subsection (f) and dividing the sum of the products by the national acreage allotment.

(8) "Farm marketing quota" for any farm for any marketing year shall be the number of pounds of tobacco obtained by multiplying the farm yield by the acreage allotment prior to any adjustment for undermarketing or overmarketing, increased for undermarketing or decreased for overmarketing by the number of pounds by which marketings of tobacco from the farm during the immediately preceding marketing year, if marketing quotas were in effect under the program established by this section, is less than or exceeds the farm marketing quota for such year: *Provided*, That the farm marketing quota for any marketing year shall not be increased for undermarketing by an amount in excess of the number of pounds determined by multiplying the acreage allotment for the farm for the immediately preceding year prior to any increase or decrease for undermarketing or overmarketing by the farm yield. If on account of excess marketings in the preceding marketing year the farm marketing quota for the marketing year is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made for the subsequent marketing year or years. The farm marketing quota will be increased or decreased for the second succeeding marketing year in the case of Maryland tobacco, and for any other kind of tobacco for which the Secretary determines it is impracticable because of the lack of adequate marketing data, to make the increases or decreases applicable to the immediately succeeding marketing year. (7 U.S.C. 1314c(a).)

(b) Within thirty days after the enactment of this section the Secretary pursuant to the provisions of subsection (a) of this section shall determine and announce the amount of the national marketing quota for Flue-cured tobacco for the marketing year beginning July 1, 1965, and the national acreage allotment and national average yield goal for the 1965 crop of Flue-cured tobacco, and within thirty days after the announcement of the amount of such national marketing quota shall conduct a special referendum of the farmers engaged in the production of Flue-cured tobacco of the 1964 crop to determine whether they favor or oppose the establishment of marketing quotas on an average-poundage basis as provided in this section for the marketing years beginning July 1, 1965, July 1, 1966, and July 1, 1967, in lieu of quotas on an acreage basis in effect for those marketing years. If the Secretary

determines that more than 66 2/3 per centum of the farmers voting in the special referendum approve marketing quotas on an acreage-poundage basis, marketing quotas on an acreage-poundage basis as provided in this section shall be in effect for those marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period. (7 U.S.C. 1314c(b).)

(c) Whenever, during the first or second marketing year of the three-year period for which marketing quotas on an acreage basis are in effect for any kind of tobacco, including Flue-cured tobacco, the Secretary, in his discretion, determines with respect to that kind of tobacco that acreage-poundage quotas under this section would result in a more effective marketing quota program for that kind of tobacco he shall at the time the next announcement of the amount of the national marketing quota under section 312(b) of this Act determine and announce the amount of the national quota for that kind of tobacco under this section of the Act and at the same time announce the national acreage allotment and national average yield goal and within forty-five days thereafter conduct a special referendum of farmers engaged in the production of the kind of tobacco of the most recent crop to determine whether they favor the establishment of marketing quotas on an acreage-poundage basis as provided in this section for the next three marketing years: *Provided, however,* That the Secretary shall not make any such determination with respect to any kind of tobacco except Flue-cured tobacco unless prior thereto he shall conduct public hearings in the areas where such tobacco is produced for the purpose of ascertaining and taking into consideration the attitudes of producers and other interested persons with respect to acreage-poundage quotas. If the Secretary determines that more than 66 2/3 per centum of the farmers voting in the special referendum approve marketing quotas on an acreage-poundage basis as provided in this section, quotas on that basis shall be in effect for the next three marketing years and the marketing quotas on an acreage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on an acreage-poundage basis are not approved by more than 66 2/3 per centum of the farmers voting in such referendum, the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under section 312(a). (7 U.S.C. 1314c(c).)

(d) If marketing quotas have been made effective for a kind of tobacco on an acreage-poundage basis pursuant to subsections (b) or (c) the Secretary shall, not later than December 1 of any marketing year with respect to Flue-cured tobacco, and February 1 with respect to other kinds of tobacco, proclaim a national marketing quota for that kind of tobacco for the next three succeeding marketing years if the marketing year is the last year of three consecutive years for which marketing quotas previously proclaimed will be in effect. The Secretary, in his discretion, may proclaim the quota on an acreage-poundage basis as provided in this section or on an acreage allotment basis, whichever he determines would result in a more effective marketing quota for that kind of tobacco, and shall conduct a referendum in accordance with the provisions of section 312(c) of this Act. If the Secretary determines that more than one-third of the farmers voting



oppose the national marketing quotas the results shall be proclaimed and the national marketing quota so proclaimed shall not be in effect. If the Secretary proclaims the quotas on an acreage-poundage basis he shall determine and proclaim at the same time the national marketing quota, national acreage allotment, and national average yield goal for the first year of the three years for which quotas are proclaimed. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by the referendum insofar as practicable shall be mailed to the farm operator prior to the holding of any special referendum under subsection (b) or a referendum on acreage-poundage quotas under this subsection, and at least 15 days prior to the holding of any special referendum under subsection (c). The Secretary shall determine and announce the national marketing quota, national acreage allotment and national average yield goal for the second and third marketing years of any three-year period for which national marketing quotas on an acreage-poundage basis are in effect on or before the December 1 with respect to Flue-cured tobacco and the February 1 with respect to other kinds of tobacco immediately preceding the beginning of the marketing year to which they apply. Whenever a national marketing quota, national acreage allotment, and national average yield goal are determined and announced, the Secretary shall provide for the determination of farm acreage allotments and farm marketing quotas under the provisions of this section for the crop and marketing year covered by the determinations. (7 U.S.C. 1314c(d).)

(e) No farm acreage allotment or farm yield shall be established for a farm on which no tobacco was produced or considered produced under applicable provisions of law for the immediately preceding five years. For each marketing year for which acreage-poundage quotas are in effect under this section the Secretary in his discretion may establish a reserve from the national acreage allotment in an amount equivalent to not more than 1 per centum of the national acreage allotment to be available for making corrections of errors in farm acreage allotments, adjusting inequities, and for establishing acreage allotments for new farms, which are farms on which tobacco was not produced or considered produced during the immediately preceding five years. The part of the reserve held for apportionment to new farms shall be allotted on the basis of land, labor, and equipment available for the production of tobacco, crop rotation practices, soil and other physical factors affecting the production of tobacco and the past tobacco-producing experience of the farm operator. The farm yield for any farm for which a new farm acreage allotment is established shall be determined on the basis of available productivity data for the land involved and farm yields for similar farms, and shall not exceed the community average yield. (7 U.S.C. 1314c(e).)

(2)<sup>41</sup> Only the provisions of the last two sentences of subsection (g) of section 313 of this Act shall apply with respect to acreage-poundage programs established under this section. The acreage reductions required under the last two sentences shall be in addition to any other adjustments made pursuant to this section, and when acreage reductions are made the farm marketing quota shall be reduced to reflect such reductions. The provisions of the next to the last sentence

<sup>41</sup> See section 703 of Pub. L. 89-321 on p. 58.



of such subsection pertaining to the filing of any false report with respect to the acreage of tobacco grown on the farm shall also be applicable to the filing of any false report with respect to the acreage of tobacco grown on the farm shall also be applicable to the filing of any false report with respect to the production or marketings of tobacco grown on a farm for which an average allotment and a farm yield are established as provided in this section. In establishing acreage allotments and farm yields for other farms owned by the owner displaced by acquisition of his land by any agency, as provided in section 378 of this Act, increases or decreases in such acreage allotments and farm yields as provided in this section shall be made on account of marketings below or in excess of the farm marketing quota for the farm acquired by the agency. Acreage allotments and farm marketing quotas determined under this section may (except in the case of kinds of tobacco not subject to section 316)<sup>42</sup> be leased under the terms and conditions contained in section 316 of this Act, except that (1) the adjustment provided for in the last sentence of subsection (c) of said section shall be based on farm yields rather than normal yields, and (2) any credit for undermarketing or charge for overmarketing shall be attributed to the farm to which transferred. Transfers of acreage allotments for 1965 under section 316 on the basis of leases executed prior to the effective date of a program for the 1965 crop of Flue-cured tobacco under this section may be approved or ratified by the county committee for the purposes of this section, but the amount of allotment transferred shall be increased or decreased in the same proportion that the allotment of the farm from which it is transferred is increased or decreased under this section. (7 U.S.C. 1314c(f).)

(g) When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 of the Act shall apply, except that:

(1) No penalty on excess tobacco shall be due or collected until 110 per centum (120 per centum in the case of Burley tobacco for the first year for which marketing quotas are made effective under this section) of the farm marketing quota for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentage the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota will require a reduction in subsequent farm marketing quotas in accordance with paragraph (a) (8): *Provided, however*, If the Secretary, in his discretion, determines it is desirable to encourage the marketing of grade N<sub>2</sub> tobacco, or any grade of tobacco not eligible for price support, in order to meet the normal demands of export and domestic markets, he may authorize the marketing of such tobacco in a marketing year without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced.

<sup>42</sup> Pub. L. 91-284, 84 Stat. 314, approved June 19, 1970, deleted from the clause in parentheses the exception for Burley tobacco.

(2) When marketing quotas established under this section are in effect the provisions with respect to penalties contained in the third sentence of subsection 314(a) shall be revised to read: "If any producer falsely identifies or fails to account for the disposition of any tobacco, the Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota plus the farm yield of the number of acres harvested in excess of the farm acreage allotment and the penalty in respect thereof shall be paid and remitted by the producer."

(3) For the first year a marketing quota program established under the provisions of this section is in effect, the words "normal production" where they appear in the fourth sentence of subsection (a) of such section shall be read "farm yield" and the said fourth sentence shall otherwise be applicable. For the second and succeeding years for which a program established under the provisions of this section is in effect, the provisions of subsection (a) (8) shall apply when penalties, if any, on carryover tobacco are computed, and the provisions contained in the fourth sentence of subsection 314(a) shall not be applicable. (7 U.S.C. 1314c(g).)

(h) Notwithstanding any other provision of this section, for any year subsequent to the first year for which marketing quotas are made effective under this section for Burley tobacco—

(1) the farm acreage allotment for Burley tobacco under this section shall not be less than the smallest of (A) the acreage allotment established for the farm for such first year, (B) five-tenths of an acre, or (C) 10 per centum of the cropland; and

(2) the farm marketing quota for Burley tobacco under this section shall not be less than the minimum allotment provided by clause (1) multiplied by the farm yield established for such first year for such farm.

Farm acreage allotments and marketing quotas to which the provisions of (1) and (2) are applicable shall be subject to adjustment for overmarketing or undermarketing or reductions required by subsection (f). The additional acreage and quotas required under this subsection shall be in addition to the national acreage allotment and national marketing quota.

Whenever the Secretary proclaims a quota on an acreage allotment basis (in lieu of on an acreage poundage basis)—

(A) the minimum acreage allotment for Burley tobacco for any farm shall be determined under the provisions of the Act of July 12, 1952, as amended (7 U.S.C. 1315) instead of under preceding provisions of this subsection;

(B) clause (1) of the Act of July 12, 1952, shall for such purpose read as follows: "(1) the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis"; and

(C) the proviso of that Act shall for such purpose read as follows: "*Provided, however,* That no allotment of seven-tenths

of an acre or less shall be reduced more than one-tenth of an acre below the allotment established for the farm for the last preceding year for which a quota was proclaimed on an acreage allotment basis." (7 U.S.C. 1341c(h).)

(i) If an acreage-poundage program for Flue-cured tobacco is approved by growers voting in the special referendum under subsection (b), the Secretary shall not later than January 1, 1966—

(1) Consult with representatives of all segments of the tobacco industry, including growers, State farm organizations, and cooperative associations, in meetings held for each kind of tobacco, to receive their recommendations and to determine the need for a similar or modified program for that kind of tobacco.

(2) Conduct a study and report to the House Committee on Agriculture and the Senate Committee on Agriculture and Forestry on experience with and operation of the program, and make recommendations for any modifications needed to improve the program, including alternatives adapted to the different needs of other kinds of tobacco. (7 U.S.C. 1314c(i).)

[Public Law 89-12.<sup>43</sup> Sec. 4—Nothing in this Act shall be construed as affecting the authority or responsibility of the Secretary of Agriculture under section 301(b) (15) or section 313(i) of the Agricultural Adjustment Act of 1938 with respect to providing that different types of tobacco shall be treated as different kinds of tobacco, or with respect to increasing allotments or quotas for farms producing certain types of tobacco. (7 U.S.C. 1314c note.)]

#### SALE OR LEASE OF ACREAGE ALLOTMENTS

SEC. 318.<sup>44</sup> (a) Notwithstanding any other provision of law, the Secretary, if he determines that it will not impair the effective operation of the tobacco marketing quota or price support programs, (1) may permit the owner and operator of any farm for which a Fire-cured, dark air-cured, or Virginia sun-cured tobacco acreage allotment or acreage-poundage quota is established under this Act to sell or lease all or any part or the right to all or any part of such allotment or quota to any other owner or operator of a farm for transfer to such farm; and (2) may permit the owner of a farm to transfer all or any part of such allotment or quota to any other farm owned or controlled by him. (7 U.S.C. 1314d(a).)

(b) Transfers under this section shall be subject to the following conditions: (1) no allotment or quota shall be transferred to a farm in another county: *Provided*, That in the case of Virginia fire-cured tobacco type 21 and Virginia sun-cured tobacco type 37, any such transfer may be made to a farm in another county in the same State; <sup>45</sup> (2) no transfer other than by annual lease of an allotment or quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders; (3) no sale of a farm

<sup>43</sup> 79 Stat. 66, approved April 16, 1965.

<sup>44</sup> Section 318 was added by Pub. L. 90-51, 81 Stat. 120, approved July 7, 1967. Subsection (b) was then amended by Pub. L. 90-387, 82 Stat. 293, approved July 5, 1968.

<sup>45</sup> This proviso was added by Pub. L. 92-144, 85 Stat. 393, approved October 23, 1971.



allotment or quota from a farm shall be permitted if any sale of allotment or quota to the same farm has been made within the three immediately preceding crop years; and (4) no transfer of allotment or quota shall be effective until a record thereof is filed with the county committee of the county to which such transfer is made and such committee determines that the transfer complies with the provisions of this section. (7 U.S.C. 1314d(b).)

(c) The transfer of an allotment or quota under this section shall have the effect of transferring also the acreage history and marketing quota attributable to such allotment or quota and if the transfer is made prior to the determination of the allotment or quota for any year the transfer shall include the right of the owner or operator to have an allotment or quota determined for the farm for such year: *Provided*, That in the case of a transfer by lease the amount of the allotment or quota shall be considered for purposes of determining allotments or quotas after the expiration of the lease to have been planted on the farm from which such allotment is transferred. (7 U.S.C. 1314d(c).)

(d) The land in the farm from which the entire tobacco allotment or quota has been transferred shall not be eligible for a new farm tobacco allotment or quota during the five years following the year in which such transfer is made. (7 U.S.C. 1314(d).)

(e) If the normal yield established by the county committee for the farm to which the allotment is transferred does not exceed the normal yield established by the county committee for the farm from which the allotment is transferred by more than 10 per centum, the transfer shall be approved acre for acre. If the normal yield for the farm to which the allotment is transferred exceeds the normal yield for the farm from which the allotment is transferred by more than 10 per centum, the county committee shall make a downward adjustment in the amount of the acreage allotment transferred by multiplying the normal yield established for the farm from which the allotment is transferred by the acreage being transferred and dividing the result by the normal yield established for the farm to which the allotment is transferred. (7 U.S.C. 1314d(e).)

(f) Any lease under this section may be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions except as otherwise provided in this section as the parties thereto agree. (7 U.S.C. 1314d(f).)

(g) Under the provisions of this section not more than ten acres of allotment may be transferred to any farm: *Provided*, That the total acreage allotted to any farm after such transfer shall not exceed 50 per centum of the acreage of cropland in the farm. (7 U.S.C. 1314d(g).)

(h) The lease of any part of a tobacco acreage allotment or acreage-poundage quota under this section determined for a farm shall not affect the allotment or quota for the farm from which such allotment or quota is transferred or the farm to which it is transferred, except with respect to the crop year or years specified in the lease. The amount of the acreage allotment and acreage-poundage quota which is leased from a farm shall be considered for purposes of determining future

allotments and quotas to have been planted to tobacco on the farm from which such allotment or quota is leased and the production pursuant to the lease shall not be taken into account in establishing allotments or quotas for subsequent years for the farm to which such allotment is leased. The lessor shall be considered to have been engaged in the production of tobacco for purposes of eligibility to vote in the referendum. (7 U.S.C. 1314d(h).)

(i) If the sale or transfer under this section occurs during a period in which the farm is covered by a conservation reserve contract, cropland conversion agreement, or other similar land utilization agreement the rates of payment provided for in the contract or agreement of the farm from which the transfer is made shall be subject to an appropriate adjustment, but no adjustment shall be made in the contract or agreement of the farm to which the transfer is made. (7 U.S.C. 1314d(i).)

(j) The Secretary shall prescribe such regulations and other terms and conditions as he deems necessary for the administration of this section. (7 U.S.C. 1314d(j).)

#### FARM POUNDAGE QUOTAS FOR BURLEY TOBACCO

SEC. 319.<sup>46</sup> (a) Notwithstanding any other provision of law, the Secretary shall, within thirty days following the enactment of this section, proclaim national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971, and determine and announce the amount of the marketing quota for burley tobacco for the marketing year beginning October 1, 1971, as provided in this section.

Within thirty days following such proclamation, the Secretary shall conduct a referendum of the farmers engaged in the production of the 1970 crop of burley tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis as provided in this section for the three marketing years beginning October 1, 1971. If the Secretary determines that two-thirds or more of the farmers voting in such referendum approve marketing quotas on a poundage basis, marketing quotas as provided in this section shall be in effect for those three marketing years. If marketing quotas on a poundage basis are not approved by at least two-thirds of the farmers voting in such referendum, no marketing quotas or price support for burley tobacco shall be in effect for the marketing year beginning October 1, 1971. Thereafter, the provisions of section 312 of the Act shall apply: *Provided*, That national marketing quotas for burley tobacco for any marketing year subsequent to the marketing year beginning October 1, 1971, shall be proclaimed as provided in this section.

(b) The Secretary shall determine and announce, not later than the February 1 preceding the second and third marketing years of any three-year period for which marketing quotas on a poundage basis are in effect under this section, the amount of the national marketing quota for each of such years. If marketing quotas have been made effective on a poundage basis under this section, the Secretary shall, not later than February 1 of the last year of three consecutive market-

<sup>46</sup> New section 319 was added by Pub. L. 92-10, 85 Stat. 23, approved April 14, 1971.

ing years for which marketing quotas are in effect under this section, proclaim national marketing quotas for burley tobacco for the next three succeeding marketing years as provided in this section. Within thirty days following such proclamation, the Secretary shall conduct a referendum in accordance with section 312(c) of the Act. If the Secretary determines that more than one-third of the farmers voting oppose the national marketing quotas, he shall announce the results and no marketing quotas or price support shall be in effect for such kind of tobacco for the first marketing year of such three-year period. Thereafter, the provisions of section 312 of the Act shall apply: *Provided*, That the national marketing quota and farm marketing quotas shall be determined as provided in this section. Notice of the farm marketing quota which will be in effect for his farm for the first marketing year covered by any referendum under this section shall, insofar as practicable, be mailed to the farm operator in sufficient time to be received prior to the referendum.

(c) The national marketing quota determined under this section for burley tobacco for any marketing year shall be the amount produced in the United States which the Secretary estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 5 per centum of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect under this section, the Secretary in his discretion may establish a reserve (hereinafter referred to as the 'national reserve') from the national marketing quota in an amount not in excess of 1 per centum of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established).

(d) When a national marketing quota is first proclaimed under this section, the Secretary shall through local committees determine a farm yield for each farm for which a burley tobacco acreage allotment was established for the marketing year beginning October 1, 1970. Such yield shall be determined by averaging the yield per acre for the four highest years of the five consecutive years beginning with the 1966 crop year: *Provided*, That if burley tobacco was produced on the farm in fewer than five of such years, the farm yield shall be the simple average of the yields obtained in the years during such period that burley tobacco was produced on the farm: *Provided further*, That if no burley tobacco was produced on the farm but the farm was considered as having planted burley tobacco during the immediately preceding five years, the farm yield will be appraised on the basis of the yields established for similar farms in the area on which burley tobacco was produced during such five-year period: *And provided further*, That the farm yield established for any farm shall not exceed three thousand five hundred pounds per acre.

(e) A preliminary farm marketing quota shall be determined for each farm for which a burley tobacco acreage allotment was estab-



lished for the marketing year beginning October 1, 1970, by multiplying the farm yield determined under subsection (d) of this section by the farm acreage allotment (prior to any reduction for violation of regulations issued pursuant to the Act) established for such farm for the marketing year beginning October 1, 1970. For each farm for which such a preliminary farm marketing quota is determined, a farm marketing quota for the first year shall be determined by multiplying the preliminary farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of all preliminary farm marketing quotas as determined under this subsection: *Provided*, That such national factor shall not be less than 95 per centum.

The farm marketing quota for each succeeding year shall be determined by multiplying the previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection (c) of this section (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined for such succeeding marketing year: *Provided*, That such national factor shall not be less than 95 per centum: *Provided further*, That for the marketing years beginning October 1, 1972, and October 1, 1973, the farm marketing quota for any farm shall not be less than the smaller of (1) one-half acre times the farm yield times one-half the sum of the figure one and the national factor for the current year, or (2) the farm marketing quota for the immediately preceding marketing year times one-half the sum of the figure one and the national factor for the current year. The farm marketing quota so computed for any farm for any year shall be increased by the number of pounds by which marketings from the farm during the immediately preceding year were less than the farm marketing quota (after adjustments): *Provided*, That any such increase shall not exceed the amount of the farm marketing quota (including leased pounds) for the immediately preceding marketing year prior to any increase for undermarketings or decrease for overmarketings. The farm marketing quota so computed for each farm for any year shall be reduced by the number of pounds by which marketing from the farm during the immediately preceding year exceeded the farm marketing quota (after adjustments): *Provided*, That if, on account of excess marketings in the preceding year, the farm marketing quota is reduced to zero pounds without reflecting the entire reduction required, the additional reduction required shall be made in subsequent marketing years.

The farm marketing quota for a new farm shall be the number of pounds determined by the county committee with approval of the State committee to be fair and reasonable for the farm on the basis of the past burley tobacco experience of the farm operator; the land, labor, and equipment available for the production of burley tobacco; crop rotation practices, and the soil and other physical factors affecting the production of burley tobacco: *Provided*, That the farm marketing quota for any such new farm shall not exceed 50 per centum of the average of the farm marketing quotas for similar farms for which farm marketing quotas are otherwise established: *Provided further*, That

the number of pounds allocated to all new farms shall not exceed that portion of the national reserve provided by the Secretary for establishing quotas for new farms.

(f) When a poundage program is in effect under this section, the farm marketing quota next established for any farm shall be reduced by the amount of burley tobacco produced on any farm (1) which is marketed as having been produced on a different farm; (2) for which proof of disposition is not furnished as required by the Secretary; and (3) as to which any producer on the farm files, or aids or acquiesces in the filing of, any false report with respect to the production or marketings of tobacco: *Provided*, That if the Secretary through the local committee finds that no person connected with such farm caused, aided, or acquiesced in any such irregularity, the next established farm marketing quota shall not be reduced under this subsection. The reductions required under this subsection shall be in addition to any other adjustments made pursuant to this section.

(g) When a poundage program is in effect under this section, farm marketing quotas (after adjustments) for burley tobacco may be leased and transferred to other farms in the same county under the terms and conditions contained in section 318 of the Act: *Provided*, That such leases and transfers shall be on a pound for pound basis: *Provided further*, That any adjustment for undermarketings or overmarketings shall be attributed to the farm to which leased and transferred: *Provided further*, That not more than fifteen thousand pounds may be leased and transferred to any farm under this section: *And provided further*, That the marketing quota determined for any farm subsequent to such lease and transfer shall not exceed an amount determined by multiplying the farm yield established under subsection (d) of this section by 50 per centum of the acreage of cropland in the farm.

(h) Effective with the marketing year beginning October 1, 1976, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any of the five years immediately preceding the year for which farm marketing quotas are being established.

(i) When marketing quotas under this section are in effect, provisions with respect to penalties for the marketing of excess tobacco and the other provisions contained in section 314 of the Act shall apply, except that:

(1) No penalty on excess tobacco shall be due or collected until 110 per centum of the farm marketing quota (after adjustments) for a farm has been marketed, but with respect to each pound of tobacco marketed in excess of such percentage the full penalty rate shall be due, payable, and collected at the time of marketing on each pound of tobacco marketed, and any tobacco marketed in excess of 100 per centum of the farm marketing quota (after adjustments) will require a reduction in subsequent farm marketing quotas in accordance with section 319(e): *Provided*, That if the Secretary, in his discretion, determines it is desirable to encourage additional marketings of any grades of burley tobacco during any marketing year to insure traditional market patterns to meet the normal demands of export and domestic markets, he may authorize the marketing of such grades without the payment



of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced, and such marketings shall be eligible for price support.

(2) The provisions with respect to penalties contained in the third sentence of section 314(a) shall be revised to read: "If any producer falsely identifies or fails to account for the disposition of any tobacco, and Secretary, in lieu of assessing and collecting penalties based on actual marketings of excess tobacco, may elect to assess a penalty computed by multiplying the full penalty rate by an amount of tobacco equal to 25 per centum of the farm marketing quota (after adjustments) and the penalty in respect thereof shall be paid and remitted by the producer."

(3) The provisions contained in the fourth sentence of section 314(a) shall not be applicable. For the first year a marketing quota program established under the provisions of this section is in effect, the farm marketing quota determined under the provisions of section 319(e) shall receive a temporary upward adjustment equal to the amount of carryover penalty-free burley tobacco for the farm. For subsequent years, the provisions of section 319(c) shall apply.

(j) The Secretary shall prescribe such regulations as he considers necessary for carrying out the provisions of this section. (7 U.S.C. 1314e.)

SEC. 320.<sup>46a</sup> Notwithstanding any other provision of law, beginning with the 1975 crop, any kind of tobacco for which marketing quotas are not in effect that is produced in an area where producers who are engaged in the production of a kind of tobacco traditionally produced in the area have approved marketing quotas under this Act shall be subject to the quota for the kind of tobacco traditionally produced in the area: *Provided, however*, That this section shall not apply in any case in which the Secretary or his designee finds any such non-quota tobacco is readily and distinguishably different from any kind of tobacco produced under quota, because of seed variety, cultural practices, method of curing and other factors effecting its physical characteristics, as determined through the application of the Federal Standards of Inspection and Identification of quota types and the tobacco does not possess any of the distinguishable characteristics of a quota type. If marketing quotas are in effect for more than one kind of tobacco in an area, any nonquota tobacco produced in the area shall be subject to quotas for the kind of tobacco traditionally produced in the area having the highest price support under the Agricultural Act of 1949.

<sup>46a</sup> Sec. 320 was added by P.L. 93-411, 88 Stat. 1089, Sept. 3, 1974.

## SUBTITLE C—ADMINISTRATIVE PROVISIONS

## PART I—PUBLICATION AND REVIEW OF QUOTAS

SEC. 361. This part shall apply to the publication and review of farm marketing quotas established for tobacco, corn, wheat, cotton, peanuts, and rice, established under subtitle B. (7 U.S.C. 1361.)

## PUBLICATION AND NOTICE OF QUOTA

SEC. 362. All acreage allotments, and the farm marketing quotas established for farms in a county or other local administrative area shall, in accordance with regulations of the Secretary, be made and kept freely available for public inspection in such county or other local administrative area. An additional copy of this information shall be kept available in the office of the county agricultural extension agent or with the chairman of the local committee. Notice of the farm marketing quota of his farm shall be mailed to the farmer.

Notice of the farm acreage allotment established for each farm shown by the records of the county committee to be entitled to such allotment shall insofar as practicable be mailed to the farm operator in sufficient time to be received prior to the date of the referendum. (7 U.S.C. 1362.)

## REVIEW BY REVIEW COMMITTEE

SEC. 363. Any farmer who is dissatisfied with his farm marketing quota may, within fifteen days after mailing to him of notice as provided in section 362, have such quota reviewed by a local review committee composed of three farmers from the same or nearby counties appointed by the Secretary. Such committee shall not include any member of the local committee which determined the farm acreage allotment, the normal yield, or the farm marketing quota for such farm. Unless application for review is made within such period, the original

<sup>100</sup> Repealed by Act of March 28, 1952, 66 Stat. 27.

determination of the farm marketing quota shall be final. (7 U.S.C. 1363.)

#### REVIEW COMMITTEE

SEC. 364. The members of the review committee shall receive as compensation for their services the same per diem as that received by the members of the committee utilized for the purposes of the Soil Conservation and Domestic Allotment Act, as amended. The members of the review committee shall not be entitled to receive compensation for more than thirty days in any one year. (7 U.S.C. 1364.)

#### INSTITUTION OF PROCEEDINGS

SEC. 365. If the farmer is dissatisfied with the determination of the review committee, he may, within fifteen days after a notice of such determination is mailed to him by registered mail or by certified mail, file a bill in equity against the review committee as defendant in the United States district court, or institute proceedings for review in any court of the State having general jurisdiction, sitting in the county or the district in which his farm is located, for the purpose of obtaining a review of such determination. Bond shall be given in an amount and with surety satisfactory to the court to secure the United States for the costs of the proceeding. The bill of complaint in such proceeding may be served by delivering a copy thereof to any one of the members of the review committee. Thereupon the review committee shall certify and file in the court a transcript of the record upon which the determination complained of was made, together with its findings of fact. (7 U.S.C. 1365.)

#### COURT REVIEW

SEC. 366. The review by the court shall be limited to questions of law, and the findings of fact by the review committee, if supported by evidence, shall be conclusive. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the review committee, the court may direct such additional evidence to be taken before the review committee in such manner and upon such terms and conditions as to the court may seem proper. The review committee may modify its findings of fact or its determination by reason of the additional evidence so taken, and it shall file with the court such modified findings or determination, which findings of fact shall be conclusive. At the earliest convenient time, the court, in term time or vacation, shall hear and determine the case upon the original record of the hearings before the review committee and upon such record as supplemented if supplemented, by further hearing before the review committee pursuant to direction of the court. The court shall affirm the review committee's determination, or modified determination, if the court determines that the same is in accordance with law. If the court determines that such determination or modified determination is not in accordance with law, the court shall remand the proceeding to the review committee with direction either to

make such determination as the court shall determine to be in accordance with law or to take such further proceedings as, in the court's opinion, the law requires. (7 U.S.C. 1366.)

#### STAY OF PROCEEDINGS AND EXCLUSIVE JURISDICTION

SEC. 367. The commencement of judicial proceedings under this part shall not, unless specifically ordered by the court, operate as a stay of the review committee's determination. Notwithstanding any other provision of law, the jurisdiction conferred by this part to review the legal validity of a determination made by a review committee pursuant to this part shall be exclusive. No court of the United States or of any State shall have jurisdiction to pass upon the legal validity of any such determination except in a proceeding under this part. (7 U.S.C. 1367.)

#### NO EFFECT ON OTHER QUOTAS

SEC. 368. Notwithstanding any increase of any farm marketing quota for any farm as a result of review of the determination thereof under this part, the marketing quotas for other farms shall not be affected. (7 U.S.C. 1368.)

#### PART II—ADJUSTMENT OF QUOTAS AND ENFORCEMENT

##### GENERAL ADJUSTMENTS OF QUOTAS

SEC. 371. (a) If at any time the Secretary has reason to believe that in the case of cotton, rice, peanuts, or tobacco the operation of farm marketing quotas in effect will cause the amount of such commodity which is free of marketing restrictions to be less than the normal supply for the marketing year for the commodity then current, he shall cause an immediate investigation to be made with respect thereto. In the course of such investigation due notice and opportunity for hearing shall be given to interested persons. If upon the basis of such investigation the Secretary finds the existence of such fact, he shall proclaim the same forthwith. He shall also in such proclamation specify such increase in, or termination of, existing quotas as he finds, on the basis of such investigation, is necessary to make the amount of such commodity which is free of marketing restrictions equal to the normal supply. (7 U.S.C. 1371(a).)

(b) If the Secretary has reason to believe that, because of a national emergency or because of a material increase in export demand, any national marketing quota or acreage allotment for cotton, rice, peanuts or tobacco should be increased or terminated, he shall cause an immediate investigation to be made to determine whether the increase or termination is necessary to meet such emergency or increase in export demand. If, on the basis of such investigation, the Secretary finds that such increase or termination is necessary, he shall immediately proclaim such finding (and if he finds an increase is necessary, the amount of the increase found by him to be necessary) and thereupon such quota or allotment shall be increased, or shall terminate, as the case may be. (7 U.S.C. 1371(b).)



(c) In case any national marketing quota or acreage allotment for any commodity is increased under this section, each farm marketing quota or acreage allotment for the commodity shall be increased in the same ratio. (7 U.S.C. 1371(c).)

(d) <sup>110</sup> \* \* \*

#### PAYMENT AND COLLECTION OF PENALTIES

SEC. 372. (a) The penalty with respect to the marketing, by sale, of wheat, cotton, or rice, if the sale is to any person within the United States, shall be collected by the buyer. (7 U.S.C. 1372(a).)

(b) All penalties provided for in Subtitle B shall be collected and paid in such manner, at such times, and under such conditions as the Secretary may by regulations prescribe. Such penalties shall be remitted to the Secretary by the person liable for the penalty, except that if any other person is liable for the collection of the penalty, such other person shall remit the penalty. The amount of such penalties shall be covered into the general fund of the Treasury of the United States. (7 U.S.C. 1372(b).)

(c) Whenever, pursuant to a claim filed with the Secretary within two years after payment to him of any penalty collected from any person pursuant to this Act, the Secretary finds that such penalty was erroneously, illegally, or wrongfully collected and that the claimant bore the burden of the payment of such penalty, the Secretary shall certify to the Secretary of the Treasury for payment to the claimant, in accordance with regulations, prescribed by the Secretary of the Treasury, such amounts as the Secretary finds the claimant is entitled to receive as a refund of such penalty.

Notwithstanding any other provision of the law, the Secretary is authorized to prescribe by regulations for the identification of farms and it shall be sufficient to schedule receipts into special deposit accounts or to schedule such receipts for transfer therefrom, or directly, into the separate fund provided for in subsection (b) hereof by means of such identification without reference to the names of the producers on such farms.

The Secretary is authorized to prescribe regulations governing the filing of such claims and the determination of such refunds. (7 U.S.C. 1372(c).)

(d) No penalty shall be collected under this Act with respect to the marketing of any agricultural commodity grown for experimental purposes only by any publicly owned agricultural experiment station. (7 U.S.C. 1372(d).)

#### REPORTS AND RECORDS

SEC. 373. (a) This subsection shall apply to warehousemen, processors, and common carriers of corn, wheat, cotton, rice, peanuts, or tobacco, and all ginneries of cotton, all persons engaged in the business of purchasing corn, wheat, cotton, rice, peanuts, or tobacco from producers, all persons engaged in the business of redrying, prizing, or

<sup>110</sup> Repealed by Pub. L. 690, 83d Cong., 68 Stat. 905, approved Aug. 28, 1954.

stemming tobacco for producers, all brokers and dealers in peanuts, agents marketing peanuts for producers, or acquiring peanuts for buyers and dealers, and all peanut growers' cooperative associations, all persons engaged in the business of cleaning, shelling, crushing, and salting of peanuts and the manufacture of peanut products, and all persons owning or operating peanut-picking or peanut-threshing machines. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of this title. Such information shall be reported and such records shall be kept in accordance with forms which the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is hereby authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memoranda as he has reason to believe are relevant and are within the control of such person. Any such person failing to make any report or keep any record as required by this subsection or making any false report or record shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500; and any tobacco warehouseman or dealer who fails to remedy such violation by making a complete and accurate report or keeping a complete and accurate record as required by this subsection within fifteen days after notice to him of such violation shall be subject to an additional fine of \$100 for each ten thousand pounds of tobacco, or fraction thereof, bought or sold by him after the date of such violation: *Provided*, That such fine shall not exceed \$5,000; and notice of such violation shall be served upon the tobacco warehouseman or dealer by mailing the same to him by registered mail or by certified mail or by posting the same at any established place of business operated by him, or both. (7 U.S.C. 1373(a).)

(b) Farmers engaged in the production of corn, wheat, cotton, rice, peanuts, or tobacco for market shall furnish such proof of their acreage, yield, storage, and marketing of the commodity in the form of records, marketing cards, reports, storage under seal, or otherwise as the Secretary may prescribe as necessary for the administration of this title. (7 U.S.C. 1373(b).)

(c) All data reported to or acquired by the Secretary pursuant to this section shall be kept confidential by all officers and employees of the Department, and only such data so reported or acquired as the Secretary deems relevant shall be disclosed by them, and then only in a suit or administrative hearing under this title. (7 U.S.C. 1373(c).)

#### MEASUREMENT OF FARMS AND REPORT OF PLANTINGS

SEC. 374. (a) <sup>111</sup> The Secretary shall provide for ascertaining, by measurement or otherwise, the acreage of any agricultural commodity or land use on farms for which the ascertainment of such acreage is

<sup>111</sup> Section 374(a) was amended by Pub. L. 89-321, 79 Stat. 1210, approved November 3, 1965.

necessary to determine compliance under any program administered by the Secretary. Insofar as practicable, the acreage of the commodity and land use shall be ascertained prior to harvest, and, if any acreage so ascertained is not in compliance with the requirements of the program the Secretary, under such terms and conditions as he prescribes, may provide a reasonable time for the adjustment of the acreage of the commodity or land use to the requirements of the program. Where cotton is planted in skiprow patterns, the same rules that were in effect for the 1971 through 1973 crops for classifying the acreage planted to cotton and the area skipped shall also apply to the 1974 through 1977 crops.<sup>112</sup> (7 U.S.C. 1374(a).)

(b) With respect to cotton, the Secretary, upon such terms and conditions as he may by regulation prescribe, shall provide, through the county and local committees for the measurement prior to planting of an acreage on the farm equal to the farm acreage allotment if so requested by the farm operator, and any farm on which the acreage planted to cotton does not exceed such measured acreage shall be deemed to be in compliance with the farm acreage allotment. (7 U.S.C. 1374(b).)

(c)<sup>112a</sup> The Secretary shall by appropriate regulations provide for the remeasurement upon request by the farm operator of the acreage planted to such commodity on the farm and for the measurement of the acreage planted to such commodity on the farm remaining after any adjustment of excess acreage hereunder and shall prescribe the conditions under which the farm operator shall be required to pay the county committee for the expense of the measurement of adjusted acreage or the expense of remeasurement after the initial measurement or the measurement of adjusted acreage. The regulations shall also provide for the refund of any deposit or payment made for the expense of the remeasurement of the initially determined acreage or the adjusted acreage when because of an error in the determination of such acreage the remeasurement brings the acreage within the allotment or permitted acreage or results in a change in acreage in excess of a reasonable variation normal to measurements of acreage of the commodity. Unless the requirements for measurement of adjusted acreage are met by the farm operator, the acreage prior to such adjustment as determined by the county committee shall be considered the acreage of the commodity on the farm in determining whether the applicable farm allotment has been exceeded. (7 U.S.C. 1374(c).)

#### REGULATIONS

SEC. 375. (a) The Secretary shall provide by regulations for the identification, wherever necessary, of corn, wheat, cotton, rice, peanuts, or tobacco so as to afford aid in discovering and identifying such amounts of the commodities as are subject to and such amounts thereof as are not subject to marketing restrictions in effect under this title. (7 U.S.C. 1375(a).)

(b) The Secretary shall prescribe such regulations as are necessary for the enforcement of this title. (7 U.S.C. 1375(b).)

<sup>112</sup> The last sentence was added to Sec. 374(a) by Sec. 1(25) of the Agriculture and Consumer Protection Act of 1973, P.L. 93-86, 87 Stat. 236, Aug. 10, 1973.

<sup>112a</sup> Sec. 374(c) was amended by P.L. 89-321, 79 Stat. 1210, Nov. 3, 1965, to delete the first sentence from said section.



## COURT JURISDICTION

SEC. 376. The several district courts of the United States are hereby vested with jurisdiction specifically to enforce the provisions of this title. If and when the Secretary shall so request, it shall be the duty of the several United States attorneys in their respective districts, under the direction of Attorney General, to institute proceedings to collect the penalties provided in this title. The remedies and penalties provided for herein shall be in addition to, and not exclusive of, any of the remedies or penalties under existing law. This section also shall be applicable to liquidated damages provided for pursuant to section 349 of this title. (7 U.S.C. 1376.)

## PRESERVATION OF UNUSED ACREAGE ALLOTMENTS

SEC. 377.<sup>113</sup> In any case in which, during any year beginning with 1956, the acreage planted to a commodity on any farm is less than the acreage allotment for such farm, the entire acreage allotment for such farm (excluding any allotment released from the farm or reapportioned to the farm and any allotment provided for the farm pursuant to subsection (f)(7)(A) of section 344) shall, except as provided herein, be considered for the purpose of establishing future State, county and farm acreage allotments to have been planted to such commodity in such year on such farm, but the 1956 acreage allotment of any community shall be regarded as planted under this section only if the owner or operator on such farm notified the county committee prior to the sixtieth day preceding the beginning of the marketing year for such commodity of his desire to preserve such allotment: *Provided*, That beginning with the 1960 crop, except for federally owned land, the current farm acreage allotments established for a commodity shall not be preserved as history acreage pursuant to the provisions of this section unless for the current year or either of the two preceding years an acreage equal to 75 per centum or more of the farm acreage allotment for such year or, in the case of upland cotton on a farm which qualified for price support on the crop produced in any such year under section 103(b) of the Agricultural Act of 1949, as amended, 75 per centum of the farm domestic allotment established under section 350 for any such year, whichever is smaller was actually planted or devoted to the commodity on the farm (or was regarded as planted under provisions of the Soil Bank Act or the Great Plains program): *Provided further*, That this section shall not be applicable in any case, within the period 1956 to 1959, in which the amount of the commodity required to be stored to postpone or avoid payment of penalty has been reduced because the allotment was not fully planted. Acreage history credits for released or reapportioned acreage shall be governed by the applicable provisions of this title pertaining to the release and reapportionment of acreage allotments. (7 U.S.C. 1377.)

<sup>113</sup> Sec. 601 of the Agricultural Act of 1970, P.L. 91-524, 84 Stat. 1371, Nov. 30, 1970 made Sec. 377 inapplicable to the 1971, 1972, and 1973 crops of upland cotton. Sec. 1(19) of the Agriculture and Consumer Protection Act of 1973, P.L. 93-86, 87 Stat. 233, Aug. 10, 1973, made this section also inapplicable to the 1974 through 1977 crops of upland cotton.



TRANSFER OF ACREAGE ALLOTMENTS AND FEED GRAIN BASIS  
ON STATE FARMS

[Food and Agriculture Act of 1965. Sec. 706.<sup>114</sup> Notwithstanding any other provision of law, the Secretary, upon the request of any agency of any State charged with the administration of the public lands of the State, may permit the transfer of acreage allotments or feed grain bases together with relevant production histories which have been determined pursuant to the Agricultural Adjustment Act of 1938, as amended, or section 16 of the Soil Conservation and Domestic Allotment Act, as amended, or the Agricultural Act of 1949, as amended, from any farm composed of public lands to any other farm or farms in the same county composed of public lands: *Provided*, That as a condition for the transfer of any allotment or base an acreage equal to or greater than the allotment or base transferred prior to adjustment, if any, shall be devoted to and maintained in permanent vegetative cover on the farm from which the transfer is made. The Secretary shall prescribe regulations which he deems necessary for the administration of this section which may provide for adjusting downward the size of the allotment or base transferred if the farm to which the allotment or base is transferred normally has a higher yield per acre for the commodity for which the allotment or base is determined, for reasonable limitations on the size of the resulting allotments and bases on farms to which transfers are made, taking into account the size of the allotments and bases on farms of similar size in the community, and for retransferring allotments or bases and relevant histories if the conditions of the transfer are not fulfilled. The term "acreage allotments" as used in this section includes the farm base acreage allotments for upland cotton. (7 U.S.C. 1305.)]

EMINENT DOMAIN

SEC. 378.<sup>115</sup> (a) Notwithstanding any other provision of this Act, the allotment determined for any commodity for any land from which the owner is displaced because of acquisition of the land for any purpose, other than for the continued production of allotted crops, by any Federal, State, or other agency having the right of eminent domain shall be placed in an allotment pool and shall be available only for use in providing allotments for other farms owned by the owners so displaced. Upon application to the county committee, within three years after the date of such displacement, any owner so displaced shall be entitled to have allotments established for other farms owned by him, taking into consideration the land, labor, and equipment available on

<sup>114</sup> P.L. 89-321, 79 Stat. 1210, Nov. 3, 1965. The words "or the Agricultural Act of 1949, as amended" were added by Sec. 405 of the Agricultural Act of 1970, P.L. 91-524, 84 Stat. 1366, Nov. 30, 1970, effective with respect to the 1971, 1972, and 1973 crops of wheat. The last sentence was added by Sec. 606 of the 1970 Act, 84 Stat. 1378, effective only with respect to the 1971, 1972, and 1973 crops. Sections 1(12) and 1(22) of the Agriculture and Consumer Protection Act of 1973, P.L. 93-86 87 Stat. 229, 235, Aug. 10 1973, made these changes also applicable to the 1974 through 1977 crops and deleted the last sentence of Sec. 706 as it appeared on p. 127 of Agriculture Handbook No. 444, effective with the 1974 crop. This sentence had been added by the 1970 Act, effective with respect to the 1971, 1972, and 1973 crops of wheat.

<sup>115</sup> Sections 313(h), 334(d), 344(h), 353(f), and 358(h) of the Agricultural Adjustment Act of 1938, as amended, were repealed by P.L. 85-835, 72 Stat. 995, Aug. 28, 1958. Any transfer or reassignment of allotment heretofore made under the provisions of these sections shall remain in effect, and any displaced farm owner for whom an allotment has been established under such repealed sections shall not be eligible for additional allotment under section 378(a) because of such displacement.

such other farms for the production of the commodity, crop-rotation practices, and the soil and other physical factors affecting the production of the commodity: <sup>116</sup> *Provided*, That the acreage used to establish or increase the allotments for such farms shall be transferred from the pool and shall not exceed the allotment most recently established for the farm acquired from the applicant and placed in the pool. During the period of eligibility for the making of allotments under this section for a displaced owner, acreage allotments for the farm from which the owner was so displaced shall be established in accordance with the procedure applicable to other farms, and such allotment shall be considered to have been fully planted. After such allotment is made under this section, the proportionate part, or all, as the case may be, of the past acreage used in establishing the allotment most recently placed in the pool for the farm from which the owner was so displaced shall be transferred to and considered for the purposes of future State, county, and farm acreage allotments to have been planted on the farm to which allotment is made under this section. Except where paragraph (c) requires the transfer of allotment to another portion of the same farm, for the purpose of this section (1) that part of any farm from which the owner is so displaced and that part from which he is not so displaced shall be considered as separate farms; and (2) an owner who voluntarily relinquishes possession of the land subsequent to its acquisition by an agency having the right of eminent domain shall be considered as having been displaced because of such acquisition. The former owner of land acquired as described in this subsection shall not be considered for the purposes hereof to have been displaced from such land during any period for which such land is leased to such former owner: *Provided*, That the occupancy of the former owner under the lease follows immediately after his occupancy as owner: *And provided further*, That if a former owner has been displaced prior to the effective date of this amendment and no allotment from the land owned by such former owner has been transferred from the allotment pool and such former owner leases the land formerly owned by him prior to two years from the effective date of this amendment such allotment shall be retransferred from the pool to such land and the occupancy of such former owner under the lease for the purposes of this subsection shall be deemed to have begun immediately after his displacement as owner. During any year of the 3-year period the allotment from a farm may remain in the allotment pool, the displaced owner may, in accordance with regulations of the Secretary, release for one year at a time any part or all of such farm allotment to the county committee for reapportionment to other farms in the county having allotments for such commodity on the basis of the past acreage of the commodity, land labor equipment available for the production of the commodity, crop rotation practices, and soil and other physical facilities affecting the production of the commodity; and the allotment reapportioned shall for purposes of establishing future farm allotments, not be regarded as planted on the farm to which the allotment was transferred. (7 U.S.C. 1378(a).)

<sup>116</sup> The second sentence of Section 378(a) was amended to substitute new language for previous language by Pub. L. 92-354, 86 Stat. 499, approved July 26, 1972.

(b) The provisions of this section shall not be applicable if (1) there is any marketing quota penalty due with respect to the marketing of the commodity from the farm acquired by the Federal, State, or other agency or by the owner of the farm; (2) any of the commodity produced on such farm has not been accounted for as required by the Secretary; or (3) the allotment next established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper identification of the commodity produced on or marketed from such farm or due to a false acreage report. (7 U.S.C. 1378(b).)

(c) This section shall not be applicable, in the case of cotton, tobacco, and peanuts, to any farm from which the owner was displaced prior to 1950, in the case of wheat and corn, to any farm from which the owner was displaced prior to 1954, and in the case of rice, to any farm from which the owner was displaced prior to 1955. In any case where the cropland acquired for nonfarming purposes from an owner by an agency having the right of eminent domain represents less than 15 per centum of the total cropland on the farm, the allotment attributable to that portion of the farm so acquired shall be transferred to that portion of the farm not so acquired. (7 U.S.C. 1378(c).)

(d)<sup>117</sup> The term "allotment" as used in this section includes the farm base acreage allotment for upland cotton. (7 U.S.C. 1378(d).)

(e)<sup>118</sup> The term "allotment" as used in this section includes the domestic allotment for wheat. (7 U.S.C. 1378(e).)

(f)<sup>119</sup> In applying the provisions of this section to a farm for which a tobacco marketing quota has been determined under section 319 of this Act, the words "allotment" and "acreage", wherever they appear, shall be construed to mean "marketing quota" and "poundage", respectively, as required.

#### RECONSTITUTION OF FARMS

SEC. 379<sup>120</sup> In any case in which the ownership of a tract of land is transferred from a parent farm, the acreage allotments, history acreages, and base acreages for the farm shall be divided between such tract and the parent farm in the same proportion that the cropland acreage in such tract bears to the cropland acreage in the parent farm, except that the Secretary shall provide by regulation the method to be used in determining the division, if any, of the acreage allotments, histories, and bases in any case in which—

(1) the tract of land transferred from the parent farm has been or is being transferred to any agency having the right to acquire it by eminent domain;

(2) the tract of land transferred from the parent farm is to be used for nonagricultural purposes;

<sup>117</sup> Sec. 605 of the Agriculture Act of 1970, P.L. 91-524, 84 Stat. 1378, Nov. 30, 1970, added subsection (d), effective only with respect to the 1971 through 1973 crops. Sec. 1(22) of the Agriculture and Consumer Protection Act of 1973, P.L. 93-86, 87 Stat. 235, Aug. 10, 1973, extended this subsection through the 1977 crop.

<sup>118</sup> Sec. 404 of the Agricultural Act of 1970, P.L. 91-524, 84 Stat. 1378, Nov. 30, 1970, added subsection (e), effective only with respect to the 1971 through 1973 crops. Sec. 1(11) of the Agriculture and Consumer Protection Act of 1973, P.L. 93-86, 87 Stat. 229, Aug. 10, 1973 extended this subsection through the 1977 crop.

<sup>119</sup> Subsection 378(f) was added by P. L. 92-10, 85 Stat. 26, April 14, 1971.

<sup>120</sup> Sec. 379 was added by Sec. 707 of the Food and Agriculture Act of 1965, P. L. 89-821, 79 Stat. 1211, Nov. 3, 1965.



(3) the parent farm resulted from a combination of two or more tracts of land and records are available showing the contribution of each tract to the allotments, histories, and bases of the parent farm;

(4) the appropriate county committee determines that a division based on cropland proportions would result in allotments and bases not representative of the operations normally carried out on any transferred tract during the base period;

(5) the parent farm is divided among heirs in settling an estate; or

(6) neither the tract transferred from the parent farm nor the remaining portion of the parent farm receives allotments in excess of allotments for similar farms in the community having allotments of the commodity or commodities involved and such allotments are consistent with good land uses, but this clause (6) shall not be applicable in the case of burley tobacco. The term "acreage allotments" as used in this section includes the farm base acreage allotments for upland cotton.<sup>121</sup> The term "acreage allotments" as used in this section includes the domestic allotment for wheat.<sup>122</sup> (7 U.S.C. 1379.)

## [AGRICULTURAL ACT OF 1970 <sup>123</sup>

### VOLUNTARY RELINQUISHMENT OF ALLOTMENTS

SEC. 803. Notwithstanding any other provision of law, the Secretary may provide for the reduction or cancellation of any allotment or base when the owner of the farm states in writing that he has no further use of such allotment or base. (16 U.S.C. 590q-2.)

<sup>121</sup> Sec. 605 of the Agricultural Act of 1970, P. L. 91-524, 84 Stat. 1378, Nov. 30, 1970, added this sentence, effective only with respect to the 1971, 1972, and 1973 crops. Sec. 1(22) of the Agriculture and Consumer Protection Act of 1973, P. L. 93-86, 87 Stat. 235, Aug. 10, 1973, made this sentence also applicable through the 1977 crop.

<sup>122</sup> Sec. 404 of the Agricultural Act of 1970, P. L. 91-524, 84 Stat. 1366, Nov. 30, 1970, added the final sentence to section 379, effective only with respect to the 1971, 1972, and 1973 crops. Sec. 1(11) of the Agriculture and Consumer Protection Act of 1973, P. L. 93-86, 87 Stat. 229, Aug. 10, 1973, made this sentence also applicable through the 1977 crop.

<sup>123</sup> P. L. 91-524, 84 Stat. 1381, Nov. 30, 1970.



AGRICULTURAL ACT OF 1949<sup>1</sup>

## AN ACT

To stabilize prices of agricultural commodities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Act of 1949." (7 U.S.C. 1421 note.)

## TITLE I-BASIC AGRICULTURAL COMMODITIES

Sec. 101. The Secretary of Agriculture (hereinafter called the "Secretary") is authorized and directed to make available through loans, purchases, or other operations, price support to cooperators for any crop of any basis agricultural commodity, if producers have not disapproved marketing quotas for such crop, at a level not in excess of 90 per centum of the parity price of the commodity nor less than the level provided in subsection (a), (b), and (c) as follows:

(a) x x x

(c) For tobacco, if marketing quotas are in effect, the level of support shall be 90 per centum of the parity price. (7 U.S.C. 1441 (c).)

(d) Notwithstanding the foregoing provisions of this section-

(1) [Applicable only to 1950 crops.]

(2) [Applicable only to 1951 crops.]

(3) the level of price support to cooperators

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<sup>1</sup>P.L. 439, 81st Cong., 63 Stat. 1051, Oct. 31, 1949.

for any crop of a basic agricultural commodity, except tobacco, for which marketing quotas have been disapproved by producers shall be 50 per centum of the parity price of such commodity; and no price support shall be made available for any crop of tobacco for which marketing quotas have been disapproved by producers;

(4) x x x

(5) price support may be made available to noncooperators at such levels, not in excess of the level of price support to cooperators, as the Secretary determines will facilitate the effective operation of the program.

(6) x x x

#### PRICE SUPPORT FOR 1960 AND SUBSEQUENT YEARS (TOBACCO)

Sec. 106.<sup>1</sup> Notwithstanding any of the provisions of section 101 of this Act: (a) For the 1960 crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be the level at which the 1959 crop of such kind of tobacco was supported, or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect. (b) For the 1961 crop and each subsequent crop of any kind of tobacco for which marketing quotas are in effect, or for which marketing quotas are not disapproved by producers, the support level in cents per pound shall be determined by adjusting the support level for the 1959 crop of such kind of tobacco, or if marketing quotas were disapproved for the 1959 crop of such kind of tobacco, the level at which the 1959 crop of such kind of tobacco would have been supported if marketing quotas had been in effect, by multiplying such support level for the 1959 crop by the ratio of (i) the average of the index of prices

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<sup>1</sup>Section 106 added by the Act of February 20, 1960, P.L.86-389, 74 Stat. 6, Feb. 20, 1960.

paid by farmers, including wage rates, interest, and taxes, as defined in section 301 (a) (1) (C) of the Agricultural Adjustment Act of 1938, as amended, for the three calendar years immediately preceding the calendar year in which the marketing year begins for the crop for which the support level is being determined to (ii) the average index of such prices paid by farmers, including wage rates, interest, and taxes for the calendar year 1959. (c)<sup>2</sup> If acreage poundage or poundage farm marketing quotas are in effect under section 317 or 319 of the Agricultural Adjustment Act of 1938, as amended, (1) price support shall not be made available on tobacco marketed in excess of 110 per centum of the marketing quota (after adjustments) for the farm on which such tobacco was produced, and (2) for the purpose of price-support eligibility, tobacco carried over from one marketing year to another shall, when marketed, be considered tobacco of the then current crop. (7 U.S.C. 1445.)

#### TITLE IV-MISCELLANEOUS

##### SUPPORT THROUGH CCC

Sec. 401. (a) The Secretary shall provide the price support authorized or required herein through the Commodity Credit Corporation and other means available to him. (7 U.S.C. 1421 (a).)

##### FACTORS

(b) Except as otherwise provided in this Act, the amounts, terms, and conditions of price support operations and the extent to which such operations are carried out, shall be determined or approved by the Secretary. x x x

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<sup>2</sup>Clause (c) was added by P.L. 89-12, 79 Stat. 72, April 16, 1965, and the current language was substituted for the original wording by P.L. 92-10, 85 Stat. 27, April 14, 1971.

## COMPLIANCE WITH ACREAGE ALLOTMENTS, GOALS AND MARKETING PRACTICES

(c) x x x Compliance by the producer with acreage allotments, production goals and marketing practices (including marketing quotas when authorized by law), prescribed by the Secretary, may be required as a condition of eligibility for price support. In administering any program for diverted acres the Secretary may make his regulations applicable on an appropriate geographical basis. Such regulations shall be administered (1) in semiarid or other areas where good husbandry requires maintenance of a prudent feed reserve in such manner as to permit, to the extent so required by good husbandry, the production of forage crops for storage and subsequent use either on the farm or in feeding operations of the farm operator, and (2) in areas declared to be disaster areas by the President under Public Law 875,<sup>1</sup> Eighty-first Congress, in such manner as will most quickly restore the normal pattern of their agriculture. (7 U.S.C. 1421 (c).)

## SUPPORT AT INCREASED LEVEL

Sec. 402. Notwithstanding any other provisions of this Act, price support at a level in excess of the maximum level of price support otherwise prescribed in this Act may be made available for any agricultural commodity if the Secretary determines, after a public hearing of which reasonable notice has been given, that price support at such increased level is necessary in order to prevent or alleviate a shortage in the supply of any agricultural commodity essential to the national welfare or in order to increase or maintain the production of any agricultural commodity in the interest of national security. The Secretary's determination

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<sup>1</sup>Language in subsection (c) after the first sentence was added by section 206 of the Agricultural Act of 1954, 68 Stat. 901. Pub. L. 875, 81st Cong., should be read as the Disaster Relief Act of 1970, 84 Stat. 1759, as therein provided, which repealed Pub. L. 81-875.



and the record of the hearing shall be available to the public. (7 U.S.C. 1422.)

#### ADJUSTMENTS FOR GRADE, ETC.

Sec. 403.<sup>1</sup> Appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors. Such adjustments shall, so far as practicable, be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support determined as provided in this Act. x x x

#### NONRECOURSE LOANS

Sec. 405. No producer shall be personally liable for any deficiency arising from the sale of the collateral securing any loan made under authority of this Act unless such loan was obtained through fraudulent representations by the producer. This provision shall not, however, be construed to prevent the Commodity Credit Corporation or the Secretary from requiring producers to assume liability for deficiencies in the grade, quality, or quantity of commodities stored on the farm or delivered by them, for failure properly to care for and preserve commodities, or for failure or refusal to deliver commodities in accordance with the requirements of the program. There is authorized to be included in the terms and conditions of any such nonrecourse loan a provision whereby on and after the maturity of the loan or any extension thereof Commodity Credit Corporation shall have the right to acquire title to the unre-

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<sup>1</sup>As originally enacted this section contained as its third sentence the following: "Middling seven-eighths-ince cotton shall be the Standard in this Act." This sentence was repealed effective with the 1961 crop by section 108 of the Agricultural Act of 1958, 72 Stat. 993. The last sentence was added by the Food and Agriculture Act of 1965, 79 Stat. 1213.

deemed collateral without obligation to pay for any market value which such collateral may have in excess of the loan indebtedness.<sup>2</sup> (7 U.S.C. 1425.)

#### ADVANCE ANNOUNCEMENT

Sec. 406. The Secretary shall, insofar as practicable, announce the level of price support for field crops in advance of the planting season and for other agricultural commodities in advance of the beginning of the marketing year or season (January 1 in the case of commodities not marketed on a marketing year or season basis), but the level of price support so announced shall not exceed the estimated maximum level of price support specified in this Act, based upon the latest information and statistics available to the Secretary when such level of price support is announced; and the level of price support so announced shall not be reduced if the maximum level of price support when determined, is less than the level so announced. (7 U.S.C. 1426.)

#### RESTRICTIONS ON SALES BY CCC

Sec. 407. The Commodity Credit Corporation may sell any farm commodity owned or controlled by it at any price not prohibited by this section. In determining sales policies for basic agricultural commodities or storable nonbasic commodities, the Corporation should give consideration to the establishing of such policies with respect to prices, terms, and conditions as it determines will not discourage or deter manufacturers, processors, and dealers from acquiring and carrying normal inventories of the commodity of the current crop. The Corporation shall not sell any basic agricultural commodity or storable nonbasic commodity at less than 5 per centum above the current support price for such

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<sup>2</sup>This sentence was added by section 502 of the Agricultural Act of 1958, 72 Stat. 996.

commodity, plus reasonable carrying charges: Provided,<sup>1</sup> x x x. The foregoing restrictions shall not apply to (A) sales for new or byproduct uses; (B) sales of peanuts and oilseeds for the extraction of oil; (C) sales for seed or feed if such sales will not substantially impair any price-support program; (D) sales of commodities which have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage; (E) sales for the purpose of establishing claims arising out of contract or against persons who have committed fraud, misrepresentation, or other wrongful acts with respect to the commodity; (F) sales for export; (G) sales of wool; and (H) sales for other than primary uses. Notwithstanding the foregoing, the Corporation, on such terms and conditions as the Secretary may deem in the public interest, shall make available any farm commodity or product thereof owned or controlled by it for use in relieving distress (1) in any area in the United States including the Virgin Islands<sup>4</sup> declared by the President to be an acute distress area because of unemployment or other economic cause if the President finds that such use will not displace or interfere with normal marketing of agricultural commodities and (2) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as

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<sup>1</sup>This proviso was added by section 109 of the Agricultural Act of 1958, 72 Stat. 996. The proviso was superseded as to upland cotton on August 1, 1964, by the proviso which follows it in the text.

<sup>4</sup>The words "including the Virgin Islands" were added by P.L. 88-585, 78 Stat. 927, Sept. 11, 1964.

amended (42 U.S.C. 1855)<sup>5</sup> x x x. Nor shall the foregoing restrictions apply to sales of commodities the disposition of which is desirable in the interest of the effective and efficient conduct of the Corporation's operations because of the small quantities involved, or because of age, location or questionable continued storability, but such sales shall be offset by such purchases of commodities as the Corporation determines are necessary to prevent such sales from substantially impairing any price-support program, or unduly affecting market prices, but in no event shall the purchase price exceed the Corporation's minimum sales price for such commodities for unrestricted use.<sup>6</sup> For the purpose of this section, sales for export shall not only include sales made on condition that the identical commodities sold be exported, but shall also include

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<sup>5</sup>See Act of Sept. 21, 1959, P.L. 86-299, 73 Stat. 574 (p.246). P.L. 875, 81st Congress, should be read as the Disaster Relief Act of 1974, P.L. 93-288, 88 Stat. 143, May 22, 1974, as provided in that Act and in the Disaster Relief Act of 1970, P.L. 91-606, 84 Stat. 1759, Dec. 31, 1970, which repealed P.L. 81-875. The language appearing after "(42 U.S.C. 1855) and before the colon was added by P.L. 87-127, 75 Stat. 293, Aug. 7, 1961. P.L. 88-585, 78 Stat. 927, Sept. 11, 1964, changed the minimum price and added the proviso.

<sup>6</sup>This sentence was added by P.L. 83-554, 68 Stat. 583, July 29, 1954. The language following "price-support program," was substituted for previous words by Sec. 409 of the Agricultural Act of 1970, P. L. 83-554, 84 Stat. 1367, Nov. 30, 1970, effective only with respect to the 1971, 1972, and 1973 marketing years. Sec. 1(16) of the Agriculture and Consumer Protection Act of 1973, P.L. 93-86, 87 Stat. 230, Aug. 10, 1973, made this language effective through the 1977 marketing years. The previous wording, which will again become effective with respect to the marketing years for the 1978 and subsequent crops, reads as follows: "but in no event shall the purchase price exceed the then current support price for such commodities."



sales made on condition that commodities of the same kind and of comparable value or quantity be exported, either in raw or processed form.<sup>7</sup> x x x.

# DEFINITIONS

Sec. 408. For the purposes of this Act-

## STORABLE COMMODITIES

(a) x x x

## COOPERATOR

(b)<sup>1</sup> A "cooperator" with respect to any basic agricultural commodity shall be a producer on whose farm the acreage planted to the commodity does not exceed the farm acreage allotment for the commodity under title III of the Agricultural Adjustment Act of 1938, as amended, x x x.

## BASIC AGRICULTURAL COMMODITY

(c) A "basic agricultural commodity" shall mean corn, cotton, peanuts, rice, tobacco, and wheat, respectively. (7 U.S.C. 1428(c).)

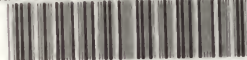
## TERMS DEFINED IN AGRICULTURAL ADJUSTMENT ACT OF 1938

(j) Any term defined in the Agricultural Adjustment Act of 1938, shall have the same meaning when used in this Act. (7 U.S.C. 1428(j).)

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<sup>7</sup>This sentence was added by P.L. 84-395, 70 Stat. 6, Jan. 28, 1956.

<sup>1</sup>The words "or wheat" and "or wheat-producing" were added by Sec. 209 of the Agricultural Act of 1954, P.L. 83-690, 68 Stat. 901, Aug. 28, 1954.



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## DETERMINATIONS BY SECRETARY

Sec. 412. Determinations made by the Secretary under this Act shall be final and conclusive: Provided, That the scope and nature of such determinations shall not be inconsistent with the provisions of the Commodity Credit Corporation Charter Act. (7 U.S.C. 1429.)

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